the number of air passengers in the last two years. Is it a fact or not ?

Secondly, the Indian Airlines schedules are being sabotaged from within by the private airlines from outside. I mentioned last time that the flight to Hyderabad used to leave at 6'o clock in the morning. It had been so for four decades. Recently it was shifted to 9 a.m. I mentioned this before the House. The Minister assured in this regard and the schedule got changed later on, but no change took place.

Thirdly, in the new Air Corporation Act there is a loophole. The private airlines are to share the lean routes too, but they are not sharing them, because they are calling themselves air taxis and are refusing to become scheduled airlines. How does the Minister propose to meet this part of the situation ?

SHRI GULAM NABI AZAD : As far as part (a) of the question is concerned, yes, to a great extent the increasing losses are because of air taxi operation, but as for as part (b) of the question is concerned, which the hon. Member has said that during the past two years the number of passengers has not increased, with due respect to the hon. Member, I would say that during the last one year the number of passengers has grown from 85 lakhs to 105 lakhs. It is about 20 lakhs by way of increase within one year. Of course, it has been shared mostly with the private airlines.

As for the schedule, as I said in the beginning we have brought about some changes in the rules that after the repeal of the Act, the private airlines are also supposed to operate on non-profitable routes other than the trunk routes. They wanted that they should be given three months' time. Meanwhile, they have been given two months' time to become a scheduled airlines. The thirtieth of this month i.e. April, is the last date for applying for the scheduled airlines. So far six airlines have applied to become the scheduled airlines. Once that is done i.e. by the 30th of this month, after one month they will be asked to operate on other routes.

SHRI S. JAIPAL REDDY : What about the Hyderabad schedule ?

SHRI GHULAM NABI AZAD : I am very sorry. I had assured to see that proper schedule is made. We will see that it is done.

MR. CHAIRMAN : Q. No. 443. (*Interruptions*) You don't want any other question to be taken up. (*Interruptions*) You can ask for a discussion. (*Interruptions*) I know it is a very important subject, but I cannot exhaust the Question Hour on it alone. (*Interruptions*) You please give a notice for a half-an-hour discussion or whatever form you want. (*Interruptions*)

श्री विष्णु कान्त शास्त्री : भारतीय जनता पार्टी की तरफ से एक आदमी को भी एलाउ नहीं किया । . . . (व्यवधान)

MR. CHAIRMAN : Please give notice for a discussion. I will allow it. Question No. 443, Shri Dave. (*Interruptions*)

Indictment of Civil Servants by Election Commission

*443. SHRI ANANTRAY DEVSHANKER DAVE :
SHRI CHIMANBHAI MEHTA :
Will the PRIME MINISTER be pleased to state :

(a) whether Government's attention has been drawn to the report published in the Observer dated the 11th April, 1994 under the caption "Election Commission indicts 28 Civil Servants";

(b) if so, whether it is a fact that the Election Commission has indicted 28 civil servants;

(c) what is the reaction of Government thereto;

(d) what are the major reasons for their indictment;

(e) who are the officials indicted by the Election Commission; and

(f) what procedure Government propose to follow on the issue of indictment ?

*The question was actually asked on the floor of the House by Shri Anantray Devshanker Dave.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRIMATI MARGARET ALVA) : (a) to (f) A statement is laid on the Table of the House.

STATEMENT

(a) and (b) Yes, Sir.

(c) The conditions of service of officers are governed by statutory rules framed under the Constitution and the relevant Act, and these prescribe competent authorities and the procedure for enforcing penalities on serving officers of the State and Central Government. Therefore, the concerned Ministrries/Departments/State Governments have been advised to hold a preliminary enquiry against each officer indicted by the Commission to determine whether a regular departmental action is justified or not and if it is justified, to hold a regular departmental enquiry as laid down in the relevant rules and take appropriate further action.

(d) and (e) These are indicated in the Statement-I (*see below*).

(f) The Election Commission has since then filed a Writ Petition No. 606/93 in the Supreme Court of India, seeking declaratory reliefs, *inter-alia* on the question of disciplinary jurisdiction of the Commission over civil servants deputed for election duties. The Supreme Court is yet to decide this case and hence, the matter is *sub-judice*.

Statement-I

S. No.	Name of the Officer	Alleged grounds for indictment
1	2	3
1.	Shri Jagdish Sagar, IAS (AGMU: 66) Joint Secretary, Ministry of Human Resources Development.	Casting aspersion on and defiance of Commission's authority in appointing central Observer.
2.	Shri K. Dharmarajan, IAS (TN : 66) Joint Secretary, Ministry of Urban Development,	Dereliction of duty in the Presidential Election, 1992.
3.	Shri S. P. Biswas, IRTS Joint Secretary, Ministry of Welfare.	Writing to the Commission about the inability of the Ministry of Welfare to spare the services of one Joint Secretary to perform duty as Observer for the election to the Bihar Legislative Council held in July, 1992
4.	Shri K. S. R. Murthy, IAS (AP ; 59) Secretary (Welfare) (Retired)	Communicating to the Commission the inability of his Ministry to spare the services of one Joint Secretary to perform duty as Observer for the election to the Bihar Legislativ. Council held in July, 1992.
5.	Shri Govind Jee Misra, IAS (RJ : 58) then Chief Electoral Officer, Rajasthan	Dereliction of duty in the procurement of papers for election purpose.

S. No.	Name of the Officer	Alleged grounds for indictment
1	2	3
6.	Shri Diljeet Aurora, IAS (IAP : 57 then Chief Secretary, Govt. of Andhra Pradesh.	Proposing bye-election for Panyan Assembly Constituency to enable the Chief Minister to enter the Legislative Assembly, after abridging the schedule of intensive revision of electoral rolls in one constituency.
7.	Smt. Sunila Basant, IAS (BH :70) then Chief Electoral Officer, Bihar.	Carelessness and negligence of duty in the matter of re-publication of Commission's Notification in the Gazette of Bihar.
8.	Shri R. Ramachandran Nair, IAS (KL : 61) then Chief Electoral Officer, Kerala.	Not publishing the Commission's Notification on the presidential Election in full in the Gazette of Kerala.
9.	Shri Mukul Sanwal, IAS (UP : 70) Joint Secretary, Ministry of Environment & Forests.	Not proceeding on leave after obtaining exemption of the Election Commission from performing duties as Central Observer for the Nagaland Assembly Elections held in Jan/Feb., 1993 on medical ground.
10.	Shri Vyas Ji, IAS (BH : 82) then Returning Officer for Chapra Parliamentary Constituency, Bihar.	Misleading the Commission that ballot boxes of three polling booths were stored in the district treasury, when as a matter of fact they had been snatched away by anti-social elements from polling parties.
11.	Smt. Anita Chaudhary, IAS (HY : 76) Private Secretary to the Minister of State for West land Development.	Seeking Constituency-wise road-map of Nagaland and names of Central Observer in connection with the election tour of the Minister.
12.	Shri N. S. Kang, IAS (PB : 83) then District Officer, Patiala.	Procedural lapses in the matter of opening the sealed box containing nomination papers etc., in the district treasury on the orders of Hon'ble High Court of Punjab & Haryana without the presence of a representative of the Commission.
13.	Shri M. Damodaran, IAS (MT : 70) Chief Secretary and Chief Electoral Officer, Tripura.	Not sending weekly report to the Commission regarding the cancellation of appointment letter of Assistant Teachers issued by the Govt. of Tripura in violation of the Commision's Model Code of Conduct.
14.	Shri A. B. Prasad, IAS (BH : 76) then Returning Officer for Gaya Graduate Constituency, Bihar.	Making false and contradictory statements in regard to destruction/damage of ballot papers.

1	2	3
15.	Shri B. P. Chaudhary, IAS (BH : 83) then Returning Officer for Buxer Parliamentary Constituency Bihar.	Committing a grave lapse in performance of his functions and duties as Returning Officer.
16.	Ten Civil and Police Officers, Govt. of Tripura.	Being present in meetings of political parties during the General Election to the Tripura Assembly
17.	Three Deputy Commissioners/Sub-Divisional Officers of the Govt. of Assam.	Committing mistakes in the allotment of symbols to political Parties when they were functioning as Returning Officers during the elections for Lok Sabha and State Assembly held in June, 1991.

श्री अनन्तराय बेचरशंकर ढवे : सभापति जी, मैंने सीधा सवाल पूछा था, लेकिन जिस तरीके से सरकार ने तोड़-मरोड़कर उत्तर दिया है, उससे एक बात तो सही दिखायी दे रही है कि सरकार का इरादा साफ नहीं है । मैं यह इसलिए कह रहा हूं क्योंकि जिन 28 सिविल सर्वेंट्स के खिलाफ कार्यवाही करने के लिए सरकार ने अपने जवाब में जो रिएक्शन दिया है, उसमें प्रिलिमिनरी इंक्वायरी एंड डिपार्टमेंटल इंक्वायरी के संबंध में बताया है । महोदय, दो साल हो चुके हैं, यह 92 का सवाल है तो मैं मंत्री महोदया से जानना चाहूंगा कि आपने कितने अधिकारियों के खिलाफ प्रिलिमिनरी इंक्वायरी सेट की है और उनमें से आप कितनों के खिलाफ रेगुलर इंक्वायरी शुरू करना चाहते हैं ?

SHRIMATI MARGARET ALVA : Mr. Chairman. Sir, first of all. I would like to say that since the indictment proceedings initiated by the Election Commissioner, the Election Commissioner has gone to the Supreme Court on this very issue asking that the powers of the Election Commission to initiate disciplinary proceedings and to enforce discipline against officers be clarified by the Supreme Court.

I would like to point out here that we have on record the opinion given to us by the then Attorney General which very clearly says that the Election Commission has no powers to initiate any disciplinary action against any official of the All India Services or of the State. All that he can do was to request the Government to take necessary steps to initiate disciplinary action against them because they were covered by the All India Services Rules. With your permission, I would just read three sentences from the opinion of the Attorney General.

SHRI INDER KUMAR GUJRAL : What was the name of the Attorney General ?

SHRIMATI MARGARET ALVA : The name of the Attorney General was Mr. G. Ramaswamy. He is now an Advocate of the Commission. That is why I am reading ... (*Interruptions*) ...

SHRIMATI RENUKA CHOWDHURY: How is the House expected to honour the opinion given by him ? This is just like adding salt to the wound.

MR. CHAIRMAN : He was the Attorney General... (*Interruptions*)..

SHRI V. NARAYANASAMY : As an Attorney-General, he gave an opinion.

SHRIMATI MARGARET ALVA : I have to go by his opinion. I would like to make two issues very clear. The matter is *sub-judice*. The Election Commissioner has gone to the Supreme Court asking that his powers be clarified by the Supreme Court. Therefore, I cannot go beyond the opinion which was given to us.

The Election Commission has issued warning and various kinds of notices to them. But as per the All India Service Rules, he has no power. Nobody else

has powers to initiate disciplinary action as provided for in the All India Service Rules. Therefore, we have asked each Ministry or Department to look at the charges made, to have a preliminary enquiry and find out if there is any basic cause for a regular departmental enquiry and if so, then, take necessary follow up action.

श्री अनन्तराय देवशंकर दवे : सर, मैं यह पूछ रहा हूं इनसे, कि दो साल हो चुका है, जो 28 अधिकारी जिनके खिलाफ प्रिलिमिनरी इन्क्वायरी सेट की है, उनमें से कितने लोग ऐसे निकलेंगे जिनके खिलाफ आप रेगुलर इन्क्वायरी सेट करने जा रहे हैं ? यही मैं पूछ रहा हूं, सब जुडिस वाली बात तो मैं पूछ ही नहीं रहा । आप मुझे सिर्फ वही जवाब दीजिए ।

SHRIMATI MARGRET ALVA : I cannot say against how many it is going to be initiated. We have asked each department, to which this reference has been made, to hold a preliminary inquiry and, based on its findings to see if there are grounds for a regular departmental inquiry to be initiated. Sir, these officers are governed by the all-India service rules and nobody can proceed against them except as per the provisions of the all-India service rules which are being applied.

श्री अनन्तराय देवशंकर दवे : सर, मैं जो पूछ रहा हूं मेरा जवाब तो आ ही नहीं रहा । . . . **(व्यवधान)** . . . मेरा जवाब तो वह दे ही नहीं रहे हैं ।

MR. CHAIRMAN : Are you putting the second supplementary ?

श्री अनन्तराय देवशंकर दवे : दो साल हो चुके हैं . . . **(व्यवधान)** . . .

MR. CHAIRMAN : No. She has answered it. (*Interruptions*). She cannot go beyond that. It is a question which is *sub judice*.

SHRI SIKANDER BAKHT : She can tell us at least whether the preliminary inquiry against anybody has been concluded or not.

MR. CHAIRMAN : Madam, you can answer this, whether you are still at the preliminary inquiry stage.

SHRIMATI MARGARET ALVA : In two cases, preliminary inquiries have started. But no action has yet been initiated against any of the officers because the matter is *sub-judice* and they are awaiting the final decision of the Supreme Court.

श्री अनन्तराय देवशंकर दवे : सर, मैं यह तो पूछ ही नहीं रहा हूं । सन् 1992 का सवाल है, जो यह इलेक्शन हुए थे तो उस समय पर इन अधिकारियों के खिलाफ कार्यवाही का इलेक्शन कमीशन ने सुझाव दिया था, किसी के खिलाफ लेटर आफ डिसप्लीजर इश्यू किया है, किसी को वारनिंग दी है, किसी को चार्जशीट दी है, उसका मैं पूछ रहा हूं। वह सुप्रीम कोर्ट में बात पड़ी है, जो सब जुडिस है, मैं उनकी बात तो कर ही नहीं रहा । मैं यह जानना चाहता हूं कि सरकार के पास एक तो दिनेश गोस्वामी की रपट पड़ी है, एक ताराकुण्डे की रिपोर्ट पड़ी है और इलेक्शन कमीशन ने भी कुछ सुझाव इलेक्टोरल रिफोर्म के भेजे हैं, तो क्या सरकार इलेक्टोरल रिफोर्म के लिए कोई कानून इस हाउस में लाने पर विचार कर रही है ? इस संबंध में एक कांप्रिहेन्सिव, पूरा कानून बनाने का सरकार का क्या कोई इरादा है ?

SHRIMATI MARGARET ALVA : Sir, this issue of electoral reforms, as you know, is being discussed with the different political party leaders in the House. We have had a number of meetings. Certain ideas have come forth and the Bills as decided upon would be introduced in the House.

Sir, I may just add, with your permission, the piece of information which the Member had sought. I have got the break-up of the cases. The number of cases "examined and dropped" at the preliminary stage is five. Two of the officers have retired. Against one, action has been initiated. And, inquiry for a major penalty is going on against two.

SHRI CHIMANBHAI MEHTA : Sir, it seems that the Government is not pleased with the Election Commission.

The charges or whatever complaints the Election Commission has made against the officers, have been pushed under the question of bureaucratic rules. These officers were on deputation and they were functioning under the Eection Commission. When an officer goes on deputation and commits some breach of discipline there, how is he going to be tackled ? The parent department would not know the gravity of the breach. Therefore, it was quite logical to enable the Election Commission to frame the chargesheet and proceed against the officers. But you did not agree with the Election Commission. The Supreme Court came into the picture much later. Mr. Seshan is a very popular person today in the entire India for his fortnight position. Yesterday also, he got a lot of clapping because of the cut on the election expenditure. The Government should take a logical view. The same Attorney-General is now defending.....

MR. CHAIRMAN : Will you put the question, please ?

SHRI CHIMANBHAI MEHTA : Yes, Sir. I am putting the question. Where was the need for the department to go to the Supreme Court when the Attorney-General's opinion was there ? With your own understanding, you should have weighed the Attorney-General's opinion. These are very serious charges.

MR. CHAIRMAN : Mr. Mehta, you put your question.

SHRI CHIMANBHAI MEHTA : It is the Government that has gone to the Supreme Court. In view of your failure to bring about the electoral reforms, would you agree with the opinion given by the Chief Election Commissioner ?

SHRIMATI MARGARET ALVA : I am quoting once again the opinion given to us and if the same lawyer today is appearing for the Election Commission, then you better ask him what opinion he is giving to the Election Commission. (*Interruptions*).

SHRI CHIMANBHAI MEHTA : When he is contradicting, you should withdraw. (*Interruptions*)

SHRIMATI MARGARET ALVA : Sir, we have to take the opinion before we respond to any notices to us. I am reading out very clearly one paragraph of the submission of then Attorney-General. "In my opinion, the notices in question, that have been issued to the officers, are totally without jurisdiction and the Election Commission has totally misunderstood its powers under the Constitution and the R.P. Act." Under article 324 of the Constitution, the superintendence, direction and control of the conduct of election shall be vested with the Commission and he has gone on to say that... (*Interruptions*).

SHRI CHIMANBHAI MEHTA : Sir, officers who are going on deputation to the other departments, how are they treated when there is a breach of discipline ?

SHRIMATI MARGARET ALVA : Whenever they are on deputation and if there is any problem, all that can be done, if they are outside the Government Department, that is, on deputation to an autonomous body or to any other agency, they can refer the matter to the department for necessary action to be initiated and then under rule of the service rules, we have to follow certain procedures to conduct a preliminary enquiry, establish certain preliminary charges and then to proceed with a regular departmental enquiry. That procedure has been followed and, as I said, five of them, after a preliminary enquiry, have been discharged. (*Interruptions*) Sir we have a common procedure for the All India Services and the residuary power for discipline is only with the Central Government. We are, therefore, following the procedure, as laid down in the All India Services Rules.

श्रीमती सुषमा स्वराज : सभापति महोदय, मैं मंत्री महोदया से यह जानना चाहूंगी कि यह जो 17 अधिकारियों की सूची उन्होंने जवाब में लगाई है, क्या इलैक्शन कमीशन की इन्डाइटमेंट के बावजूद इनमें से किसी को पदोन्नति दी गई है, किसी को रि-एम्प्लायड किया गया है? यदि किया है तो कितनों को किया है और किस-किस को किया है? साथ ही

मैं यह भी जानना चाहूंगी कि यह जो आपने सूची दी है, इसमें से कुछ केसिस इतने ज्यादा गंभीर हैं, जैसे नम्बर 8 पर, नम्बर 10 पर, नम्बर 14 पर, जहां फाल्स और कांट्राडिक्टरी स्टेटमेंट्स के चार्जिज हैं, जहां कमीशन को मिसलीड करने के चार्जिज हैं, क्या ऐसे केसिस में भी आप समझती हैं कि प्रिलिमिनरी इंक्वायरी करने की जरूरत है ?

SHRIMATI MARGARET ALVA : Sir, I can only say that we have to follow the All India Services' requirements because they are appointed as per those rules and I cannot change those rules, no matter, what the charges are. As far as the special question about how many of them have been promoted and so on, I will need notice I will certainly get the details and send them to the hon. Member.

श्रीमती सुषमा स्वराज : इसमें दो नोटिस की जरूरत ही नहीं है, अगर यह पता है कि इंक्वायरी कितनों के खिलाफ हो गई है, कितने डाप हो गए हैं, कितनों के खिलाफ एक्शन हो गया है । यह बहुत बड़ी बात है कि इलेक्शन कमीशन इन्डाइट करता है किसी आफिसर को और उसको रि-एम्प्लायमेंट मिलता है या उसको प्रमोशन मिलती है और मेरी जानकारी में है कि इसमें ऐसे आफिसर हैं जिन्हें प्रमोट किया गया है, जिन्हें रि-एम्प्लायमेंट दी गई है क्योंकि उन्होंने सरकार का साथ दिया था चुनाव के दौरान, इसलिए उनको रि-एम्प्लायमेंट दिया गया है, आफ्टर रिटायरमेंट उनको रि-एम्प्लायमेंट दिया गया है । मंत्री महोदया मना कैसे कर रही हैं? . . (**व्यवधान**) . . जहां यह फैक्ट है, . . (**व्यवधान**) . . . इस सूची में उनको नाम हैं जिनको रिटायरमेंट के बाद रि-एम्प्लायमेंट दी गई है ।

SHRIMATI MARGARET ALVA : No officer can be held guilty until and unless in a regular departmental enquiry he is found guilty. (*Interruptions*)

SHRIMATI SUSHMA SWARAJ : Re-employment is not a matter of right. Re-employment is only a matter of favour. (*Interruptions*)

SHRIMATI RENUKA CHOWDHURY : You have not taken action against those officers who have been found guilty. When are you going to complete the enquiry against them ? (*Interruptions*) We want the Government to be serious about it. (*Interruptions*)

SHRIMATI RENUKA CHOWDHURY : Have they constituted any parameters ? Is there any time-frame programme within which they will execute it ? (*Interruptions*).

MR. CHAIRMAN : Please sit down. (*Interruptions*). Let her answer it.

SHRIMATI MARGARET ALVA : I have not given any time-frame programme. (*Interruptions*).

MR. CHAIRMAN : Question Hour is over.

WRITTEN ANSWERS TO QUESTIONS

अबेरी ग्राम में सैन्य स्टेशन के लिए भूमि का अधिग्रहण

*444. **श्री महेश्वर सिंह** : क्या प्रधान मंत्री 23 दिसम्बर, 1993 को राज्य सभा में अतारांकित प्रश्न 3120 के दिए गए उत्तर को देखेंगे और यह बताने की कृपा करेंगे कि :

(क) क्या हिमाचल प्रदेश के कुल्लू जिला स्थित अबेरी ग्राम में सैन्य स्टेशन स्थापित करने के लिए भूमि के अधिग्रहण/अंतरण की प्रक्रिया पूर्ण हो गई है;

(ख) यदि हां, तो तत्संबंधी ब्यौरा क्या है; और

(ग) उक्त सैन्य स्टेशन की स्थापना कब तक कर दिए जाने की संभावना है ?

रक्षा मंत्रालय में राज्य मंत्री (श्री मल्लिकार्जुन) : (क) जी, नहीं ।

(ख) (क) में दिए गए उत्तर को ध्यान में रखते हुए प्रश्न नहीं उठता ।